

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA**

**IN RE PHILIPS RECALLED CPAP,
BI-LEVEL PAP, AND MECHANICAL
VENTILATOR PRODUCTS
LITIGATION**

Master Docket: No. 21-MC-1230-JFC

MDL No. 3014

This Document Relates to:

<i>2:21-cv-01425</i>	<i>2:22-cv-00579</i>
<i>2:21-cv-01428</i>	<i>2:22-cv-00620</i>
<i>2:21-cv-01448</i>	<i>2:22-cv-00660</i>
<i>2:21-cv-01453</i>	<i>2:22-cv-00662</i>
<i>2:21-cv-01462</i>	<i>2:22-cv-00663</i>
<i>2:21-cv-01526</i>	<i>2:22-cv-00760</i>
<i>2:21-cv-01527</i>	<i>2:22-cv-00769</i>
<i>2:21-cv-01597</i>	<i>2:22-cv-00805</i>
<i>2:21-cv-01604</i>	<i>2:22-cv-00809</i>
<i>2:21-cv-01794</i>	<i>2:22-cv-00896</i>
<i>2:21-cv-01899</i>	<i>2:22-cv-01102</i>
<i>2:22-cv-00032</i>	<i>2:22-cv-01135</i>
<i>2:22-cv-00039</i>	<i>2:22-cv-01137</i>
<i>2:22-cv-00098</i>	<i>2:22-cv-01172</i>
<i>2:22-cv-00120</i>	<i>2:22-cv-01192</i>
<i>2:22-cv-00156</i>	<i>2:22-cv-01225</i>
<i>2:22-cv-00186</i>	<i>2:22-cv-01353</i>
<i>2:22-cv-00329</i>	<i>2:22-cv-01362</i>
<i>2:22-cv-00344</i>	<i>2:22-cv-01383</i>
<i>2:22-cv-00387</i>	<i>2:22-cv-01384</i>
<i>2:22-cv-00412</i>	<i>2:22-cv-01389</i>
<i>2:22-cv-00497</i>	<i>2:22-cv-01412</i>
<i>2:22-cv-00577</i>	<i>2:22-cv-01435</i>
<i>2:22-cv-00578</i>	

**PHILIPS DEFENDANTS' RULE 41(b) MOTION TO DISMISS
CERTAIN PLAINTIFFS' CLAIMS, OR IN THE ALTERNATIVE,
FOR AN ORDER TO SHOW CAUSE WHY DISMISSAL SHOULD NOT BE GRANTED**

Defendant Philips RS North America LLC and Defendants Koninklijke Philips N.V., Philips North America LLC, Philips Holding USA, Inc., and Philips RS North America Holding Corporation (collectively, the "Philips Defendants"), through their undersigned counsel,

respectfully move this Court to (i) dismiss the claims of certain Plaintiffs with prejudice, pursuant to Federal Rule of Civil Procedure 41(b), or in the alternative, (ii) issue an order requiring those Plaintiffs to show cause why dismissal should not be granted.

As set forth more fully in the accompanying Memorandum of Law, certain Personal Injury Plaintiffs whose complaints were transferred, or were in the process of being transferred, or were direct filed, in the MDL prior to October 24, 2022, failed to file Short Form Complaints on or before December 23, 2022 (the “Non-Filing Plaintiffs”), as required by section 4.a of this Court’s Pretrial Order No. 28 (ECF No. 783). Accordingly, the Non-Filing Plaintiffs have failed to prosecute their matters and failed to comply with a valid and express Court order, and their claims should be dismissed with prejudice, pursuant to Federal Rule of Civil Procedure 41(b), along with such other and further relief as the Court deems just and proper.

In the alternative, as set forth more fully in the accompanying Memorandum of Law, the Non-Filing Plaintiffs should be Ordered to Show Cause why dismissal with prejudice should not be granted, pursuant to Federal Rule of Civil Procedure 41(b), on or before _____, and such other and further relief as the Court deems just and proper should not be afforded to the Philips Defendants.

Dated: January 6, 2023

Respectfully Submitted,

/s/ John P. Lavelle, Jr.

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Holding USA, Inc., and Philips RS North
America Holding Corporation*

CERTIFICATE OF SERVICE

I hereby certify that on January 6, 2023, the foregoing document was electronically filed with the Clerk of the Court and served upon counsel of record through the Court's ECF filing system.

/s/ John P. Lavelle, Jr.

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